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Wagner-Peyser Agricultural Outreach Plan 2014

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STATE OF MAINE
DEPARTMENT OF LABOR
BUREAU OF EMPLOYMENT SERVICES
55 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0055

PAUL R. LEPAGE
GOVERNOR

Jeanne S. Paquette
COMMISSIONER

May 15, 2014

Holly O'Brien
Employment and Training Administration
John F. Kennedy Federal Building Room E-350
Boston, MA 02203

Dear Ms. O'Brien:

It is our pleasure to submit the 2014 Agricultural Outreach Plan as a modification to the State Workforce Plan and as required in TEG 13-13. The attached Agricultural Outreach Plan includes the required elements including assessment of need, proposed outreach activities, services provided to MSFWs, numerical goals, and data analysis. In addition, the Plan includes a staffing change and more robust involvement of local offices in areas of the state with MSFW density.

Maine's longtime SMA retired in early January and in assessing the work and organizational options, MDOL decided upon a staffing design that includes .5 Full-time Equivalent State Monitor Advocate with broader support from other Wagner-Peyser funded staff. Upon approval of this plan, the remaining .5 of the FTE will be dedicated to the Foreign Labor Certification program. In addition to increasing local one-stop outreach efforts, MDOL is also increasing capacity of Maine job bank staff to assist the SMA with housing inspections. It is our belief that this staffing design will benefit the program by increasing overall capacity, broadening expertise and involvement to many more staff, and most importantly, providing for a more integrated and improved approach to serving MSFWs.

Due to a lag in filling the SMA position, loss of expertise in the MSFW/SMA/AOP process, and personal tragedy of staff key to the process, we must report that we have been unable to meet the 45 day public comment timeframe. Interested parties have been involved in the development of the plan however, the formal draft plan was only recently distributed to those parties. Comments to date are attached to this plan. We understand that public comment is an important component and based on the lack of comments in past years and MDOL's close working relationship with the interested parties, this plan be approved with the condition that any comments received will be considered, responded to, reported, and used for plan modification.

Thank you for reviewing our Agricultural Outreach Plan and considering our request for conditional approval.

Sincerely,

Garret Oswald
Director, State Workforce Investment Board

Dawn Mealey
Deputy Director, Employment Services

Cc: Jeanne Paquette, Commissioner
Juan Regalado, USDOL
Richard Chavez, USDOL Region 1
Carmen Rodriguez, USDOL, Region

WAGNER-PEYSER AGRICULTURAL OUTREACH PLAN 2014

[WIA REGULATIONS; 20 CFR 653.1070]

Assessment of Need:

Maine's Migrant Seasonal Farm Workers (MSFW), cycle through various crop harvests including blueberry, broccoli, potato, other field vegetable, apple, poultry, and seafood processing industry operations during Maine's short agricultural production season, as well as off season as it relates to egg and seafood. The chart below shows the numbers of MSFWs that were provided with some level of service during 2013. This assistance includes job referral information, answering questions on worker wage deductions, housing standards information, working conditions and issues of discrimination.

Services Provided to MSFWs through the Wagner-Peyser Act in 2012-13

2012-13	Registered In MJB (self-identified)*	Referred to jobs	Provided Services	Referred to Supportive Services	Case Management Counseling	Received Job Development Contact	Contacted by SMA outreach
Oct-Dec	271	1	136	34	51	3	95?
Jan-March	405	5	225	69	78	5	20?
April-June	515	12	285	80	94	7	165
July-Sept	183	2	93	0	17	0	397

*The numbers above are based on services (transactions) provided to job seekers who register and self-identify as MSFW and are active on the Maine Job Bank (MJB). Job seekers on the MJB that do not receive services for 90 days, become inactive. Returning job seekers, reactivating their accounts, count as new registrations with new services (transactions). Total number of services is always equal to or more than the number of individuals served. The quarters above are "rolling-quarters" in that services reported each quarter are an accumulation of the quarters preceding the reporting period. For example, the March 2014 report includes all services provided to MSFWs from July 1, 2013 through March 31, 2014.

Increasing mechanization has produced a slight decrease in the annual number of MSFWs in the blueberry harvesting sector, shifting workers to the freezing/packing plants. Broccoli producers reported that their labor needs are flat, as such remain constant, and they do not look to "guesstimate" the labor needs for the following year. Apple orchards and packing houses also report flat numbers and do not foresee increasing labor need, the larger Apple producers use the H-2A program for harvest purposes and rely on returning local seasonal and permanent help in the packing houses. Likewise Potato growers and packers, based on comments from the Maine Potato Board, rely on a seasonal returning local labor for both the field activity (field prep and crop cultivation and harvest) and packing house activity. Throughout the state, a select number of growers of diversified crops, including vegetables, use foreign H-2A labor in small quantities to supplement the available returning local seasonal field help. Overall many sectors of Maine's agricultural producers are hiring fewer workers even when it comes to local seasonal labor. This is evident in the conversion of family and larger farms turning to "agri-tourism" and the you-pick system as a strategy to sustain the farm. The conversion to 'pick your own' also makes it unnecessary to plan for labor needs, so that farms rely then on a small static number of permanent and local seasonal labor.

Crop	# Estimated of workers 2012-13	Estimated # of workers- 2013-14
Blueberries	475	450
Broccoli	330	330
Potato	4250	4250
Apple	366	350
Diversified Crop, mixed vegetable	41	45

Eastern Maine Development Corporation (EMDC), is the National Farmworkers Jobs Program (NFJP) operator in Maine (WIA Section 167), and was awarded PY 2014 funding to help address the myriad of critical issues faced by farmworkers and their families. NFJP served 279 MSFWs during 2013. The NFJP is a required partner of the One-Stop delivery system and is responsible for making the full range of services available through the One-Stop available to farmworkers. To ensure that all services are focused on the customer's needs, services are provided through a case-management approach and may include: core, intensive, and training services; and related assistance, which includes emergency assistance and supportive services. Before receiving intensive services, a participant must receive one core service, and, prior to receiving training services, a participant must receive at least one intensive service. Among key concerns negatively impacting this population are lack of education, poverty, unstable employment, access to housing, transportation and healthcare and limited English proficiency. Individuals who have earned more than 50 percent of their income from agricultural labor are encouraged to apply; their dependents may also be eligible.

Outreach Activities:

MDOL services to migrant and seasonal farm workers and agricultural employers are supported by Wagner-Peyser Act funds. Core services are provided by the State Monitor Advocate and merit staff located in CareerCenters throughout the state. Approximately \$100,000 of Wagner-Peyser Act funding has been supporting the cost of one State Monitor Advocate and activities provided by CareerCenter consultants, employment and training specialists and CareerCenter managers to MSFW and agriculture employees. Wagner-Peyser Act funds are applied to salaries, fringe benefits, communications, travel and other staff-related expenses required to provide outreach and CareerCenter services. In this PY14 Agricultural Outreach Plan modification ME DOL proposes a restructuring of the State Monitor Advocate position. Past years performance indicators in our services to MSFWs indicate that Maine does not qualify to be designated as a significant State nor does it have qualifying significant local offices serving MSFWs. Henceforth the State Monitor Advocate (SMA) position will be a half time position. SMA duties will continue to be the basic duties required of all SMA's as well as oversight of the Job Service Complaint System under W-P funding. In addition, the person in the half-time SMA role will spend the other half of the time overseeing the Foreign Labor Certification (FLC) related job orders for H-2A and H-2B; providing reviews of Agricultural Clearance Orders (ETA-790) intended for H-2A, and providing guidance and oversight to H-2A unit staff conducting farm labor camp inspections related to H-2A FLC applications. Then combination of SMA duties and Foreign Labor related activities will substantively support one full-time employee (FTE).

The chart below shows the projected numbers of MSFWs who will receive services under Wagner-Peyser Act in 2014. CareerCenters throughout the State are the primary source for providing these services to the MSFWs population. Examples of these services include: registration with the Maine Job Bank (MJB), job referrals, job counseling and referrals to supportive services.

Wagner-Peyser Goals for 2013-14

2013	Registered in MJB (self-identified)	Referred to Jobs	Provided services	Referred to Supportive services	Case management counseling	Received Job Development Contact	Contacted by SMA through outreach
Oct-Dec*	330	5	159	2	45	5	190
Jan-March*	471	7	234	7	66	8	20
April-June	550	10	315	30	130	35	75
July-Sept	200	5	102	10	35	8	400
*these Quarter are actual reported values							

Services provided:

Core, intensive and training services required under WIA Title I are provided to MSFWs through a combined effort of regular One-Stop customer services. In addition at one of the large, more urban, CareerCenters, monthly workshops are offered in Spanish and English offering participants coaching on successful job application; how to apply for employment; resume preparation, and growing basic computer skills.

Outreach activities will be consistent with 20 CFR Part 653.107 and will serve to implement strategies aimed to identify, document, and track MSFWs as they access core, intensive, and training services within the One Stop CareerCenters. The outreach program will focus on locating and contacting farm workers not reached through normal intake activities. The outreach efforts will implement compliance requirements in providing qualitative equivalent and quantitatively proportionate service delivery to MSFWs.

MSFW Outreach worker and outreach plans will be required of local offices nearest the greater area of agricultural activities relative to the crop's peak season. Outreach staff will contact MSFWs during the agricultural season peak harvest of blueberry, apple, and broccoli, while conducting field visits in Androscoggin, Oxford, Washington and Aroostook counties. These counties have the bulk of MSFW population. Additional outreach may take place in other counties as needed, based on employer needs and influx of workers into those areas With particularity to H-2A local offices whose neighboring agricultural employers file H-2A job orders and may have referrals to those orders. The local office should carry out active referrals until the employer's H-2A workers depart for the work site (at least two days before the employer's set Start date for work on the job order). During field visits, informational brochures in Spanish and English are distributed, including a USDOL Wage & Hour Division booklet explaining Wages, the Family and Medical Leave Act, and lie detector tests. Information on agricultural employment, as well as, referral to other services such as health services are also made available to the workers and their families as needed. The table below shows the State Monitor Advocate's schedule for field visits during PY 13-14 and the number of MSFWs estimated to be contacted.

State Monitor Advocate Field Visit Schedule

	July - September	October - December	January - March	April - June	Total
Field Checks	35	28	0	15	78
Estimated Number of MSFWs contacted	975	375	0	75	1425

The number of MSFWs to be contacted next year by Wagner-Peyser staff is expected to be around 1,425 workers. These contacts occur during outreach and field checks, including random unannounced visits to labor camps and work areas where MSFWs may be present. The State Monitor Advocate looks to identify issues that may include: working conditions, the proper display of mandatory/informational posters, wages, housing standards, water quality, and more. The number of worksites visited, locations, and supervisor contact names are recorded along with the time of visit, observations made, available services discussed with MSFWs, number of MSFWs contacted, names of MSFWs requesting services, and follow-up arrangements established. A copy of the field report is filed with local office managers and the administrative office of the Bureau of Employment Services.

The Memorandum of Understanding signed between MDOL and Eastern Maine Development Corporation (EMDC), the WIA 167 National Farmworker Job Program grantee, continued to facilitate the exchange data pertaining to services provided to MSFWs. EMDC staff conducted outreach, year around, contacting a total of 325 MSFWs, bringing the total of contacts between EMDC and MDOL to 1,167 MSFWs.

Outreach functions are tied to the service delivery areas where farm workers and agricultural employers live, work and/or congregate. Service delivery strategies will aim to assist farm workers efforts to achieve integration and self –sufficiency. Outreach efforts seek to provide a full range of services and resources to the agricultural communities including, but not limited to, providing services and support to MSFWs such as skills assessment, career guidance, basic skills and vocational training, educational opportunities, job search assistance and other supportive services.

The outreach staff will gain extensive knowledge of farm work in order to insure high levels of awareness and sensitivity to the socio-economic and cultural nuances that exists within the agricultural communities. The outreach staff will be bilingual (English/Spanish) and preferably representative of the farm worker population in the service delivery area.

The State Monitor Advocate and outreach staff will partner with organizations and agencies serving the agricultural employment community to ensure that the needs and concerns of these workers receive consideration in the development and implementation of integrated service plans.

Some strategies will include:

- Increase the number of MSFWs who participate in labor exchange activities
- Increase the number of agricultural employers utilizing the labor exchange services
- Promote the use of the Agricultural Recruitment System (ARS)

Encourage participation of MSFWs seeking transition to higher-wage jobs and permanent non-agricultural employment
Enhance collaboration with MSFW service provider organizations

The State Monitor Advocate and members of a nearby One-Stop CareerCenter, NFJP, Maine Migrant Health Program (www.mainemigrant.org), Pine Tree Legal Assistance, (www.ptla.org), Maine DHHS SNAP (food stamp program), Downeast Health Services WIC program (www.downeasthealth.org), Maine Department of Education Migrant Education Program (<http://www.maine.gov/doe/migrant/index.html>) and Syntiro's High School Equivalency Program (www.syntiro.org) coordinate a collaborative resource center called The Raker's Center from the end of July until mid-August. Located in the center of the blueberry harvest lands, next to the town hall in Columbia, Maine, the Center provides blueberry field workers (rakers) a wide array of educational, occupational, health, and social supports to the migrant farmworkers in the Maine blueberry industry. MSFWs visiting the Raker's Center may receive food assistance, gas vouchers, emergency auto repair, emergency lodging, tents, clothing and personal care items, job search services, and referrals to social services.

Services Provided to MSFWs through the CareerCenters

One of the roles of the State Monitor Advocate and the WIA 167 grantee is to make job opportunities available to workers. In addition to field visits, staff monitors the local CareerCenter offices for compliance with regulations in serving MSFWs. The table below shows the Monitor Advocate's schedule for monitoring local offices during PY14.

SMA Local Office Monitoring Schedule	
ES OFFICE	Monitoring Timeframe
Presque Isle	June-July
Calais	August
Machias	August
Bangor	August
Skowhegan	September
Wilton	September
Rockland	May
Brunswick	May
Portland	July
Augusta	June
Lewiston	September-October
Springvale	April-May
Norway	September

CareerCenters, in collaboration with the State Monitor Advocate and bilingual CareerCenter staff, will coordinate service delivery including, but not limited to:

- Providing a full range of employment services, benefits, and protections on a basis that is qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs;
- Accessing and using job order information effectively;
- Facilitating activities in accessing self-assisted services via electronic technologies;
- Referring individuals to agricultural and non-agricultural job, training, and support services, as well as available testing, counseling, and other job development services;

- Providing information on labor rights, protections, and responsibilities with respect to terms and conditions of employment;
- Assisting workers in the preparation and filing of employment and non-employment related complaints;
- Accepting and referring labor-related complaints and apparent violations in accordance with established policies and procedures;
- Referring individuals and family members to supportive services for which they may be eligible;
- Assisting workers with posting resumes on-line and conducting on-line job searches; and
- Facilitating communication between limited-English proficient individuals referred to jobs and employers.

The Bureau of Employment Services implements the Job Service Complaint System (per 20 CFR Subpart E §658.400 – 658.418) for retrieval of complaints that are filed at local One-Stops and at the Central Office. The State Monitor Advocate also functions as the Complaint Resolution Administrator and has direct responsibility of the Job Service Complaint System process, field check Apparent Violation forms. The State Monitor Advocate keeps records of all complaints filed, correspondence between parties, and notes from all investigations for a period of three years. The State Monitor Advocate reviews these files quarterly to assure compliance, appropriate complaint resolution, and adherence to customer satisfaction principles. The SMA prepares and submits the Quarterly Complaint System activity report including local office complaint logs to US DOL ETA Region I office and provides a copy of the Bureau Director and the EEO Coordinator.

Services Provided to Agricultural Employers through the CareerCenters

CareerCenters will continue to help agricultural employers in obtaining workers to harvest their crops. U.S. workers must be given hiring priority for jobs. As mentioned earlier H-2A local offices are those offices whose neighboring agricultural employers file H-2A job order and may have referrals to that order. The local office should carry out active referrals until the employer's H-2A workers depart for the work site (at least two days before the employer's set Start date for work on the job order). The State Monitor Advocate (SMA) will oversee the Foreign Labor related activities pertaining to processing the Agricultural Clearance order ETA form 790 for H-2A. In addition the SMA will be the liaison on this process with the US DOL Office of Foreign Labor Certification and related processing center. The SMA will also provide technical services and convene information meetings for foreign labor stakeholders, agricultural employers, and service providers.

When an employer requests foreign workers through the H2-A or H2-B program, the SMA oversees procedures described below to advertise the job opening. The Maine Job Bank received 72 H-2A job orders for a total of 558 actual job openings in agriculture for the year ending December 31, 2013. The H-2A is governed under US DOL ETA 20 CFR Part 655 and Wage & Hour Division 29 CFR Part 501, Temporary Agricultural Employment of H-2A Aliens in the United States; Final Rule February 12, 2010. The H-2A non-immigrant worker visa program enables United States (U.S.) agricultural employers to employ foreign workers on a temporary basis to perform agricultural labor or services.

Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (INA or the Act), 8 U.S.C. 1101(a)(15)(H)(ii)(a); see also 8 U.S.C. 1184(c)(1) and 1188. The INA authorizes the Secretary of the Department of Homeland Security (DHS) to permit employers to import foreign workers to perform temporary agricultural labor or services of a temporary or seasonal nature if the Secretary of the US DOL (Secretary) certifies that:

- There are not sufficient U.S. workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and
- The employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

In Maine, the H-2A related job orders are administered through MDOL/BES. Job openings intended for H-2A labor certification program are entered on America's Job Bank through the Maine Job Bank (MJB). They can be seen by potential workers in all 50 states. The SMA reviews the H-2A related Agricultural Clearance Order form ETA 790 for accuracy and compliance with the H-2A federal regulations before the job order is uploaded on the Maine Job Bank H-2A staff, and prior to employers forwarding a request for foreign workers to the USDOL ETA Office of Foreign Labor Certification H-2A National Processing Center. The jobs are also entered into the Interstate Clearance System to Florida, Vermont and New Hampshire. These are supply states that often have workers who are willing to move to accept employment on a seasonal basis. The Interstate Clearance System is an agreement between states that have a shortage of workers and those States that have a surplus. The state with the shortage sends information on the job and what the employer is willing to provide in order to recruit workers. The surplus state informs local offices that have a surplus of agriculture workers of the job opportunities and see if any wish to relocate for the harvest season.

Other Requirements

The State of Maine afforded the State Monitor Advocate an opportunity to approve and comment on the Agricultural Outreach Plan. The state solicited information and suggestions from WIA 167 National Farmworker Jobs Program (NFJP) grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations. The State provided the Plan to Maine Migrant Health Program, Maine Department of Health & Human Services local offices in agricultural areas, Refugee and Human Rights Clinic Program, University of Maine School of Law, Immigrant and Legal Advocacy Project, Mano en Mano (migrant worker family center), National Farmworker Jobs Program 160 grantee – Eastern Maine Development Corporation, Maine Department of Education – English as Second Language program, Pesticide Program, Maine Board of Pesticides Control, U.S. Department of Housing and Urban Development – Bangor office (migrant housing program), and Pine Tree Legal (Farm worker's Division). Due to extenuating circumstances, the 45 day public comment period has not been met by this due date. MDOL will leave the comment period open until 6/27/14, consider and respond to all comments and consider plan modification to any significant comments made. At the time of submission, only two comments have been received. In Maine, the NFJP grantee is the Eastern Maine Development Corporation (EMDC) based in Bangor. EMDC has executed a signed MOU with MDOL and the current Local Workforce Investment Boards for the purposes of establishing a framework for the creating and maintaining a cooperative working relationships between NFJP and the CareerCenter system. In an effort to

more effectively coordinate services offered by the CareerCenter Partners and EMDC's NFJP, each mutually agree to the following:

Each partner will determine customer eligibility for those programs offered by them:

- To perform initial assessment to determine customer service needs;
- To refer the assessed customer to any of the appropriate CareerCenter partners through a formalized referral process.
- To utilize the One-Stop Operating System (OSOS) to assist with facilitating customer access to the appropriate partner and programs;
- To jointly develop customer individualized employment and training service plans, when a customer(s) can best be served by both the CareerCenter Service Provider and EMDC's NFJP;
- To jointly monitor and exchange information to assure for ongoing coordination of services associated with joint provision of services to a customer according to their individualized employment and training plan;
- To provide for exchange of information that will assist with ongoing planning for current and future services to be offered through programs administered by both CareerCenter Service Providers and EMDC's NFJP;
- To provide a process for ongoing dialogue for the purpose of continued development of additional coordination efforts that will lead to improved customer service delivery;
- To provide pamphlets and other informational materials about the CareerCenter partner's programs and will be made available to each partner for placement at each of their service sites.
- To provide for the delivery of one partner's service through the other partner according to contractual agreement when it is determined that such arrangements would provide for enhanced customer access and outcomes and cost efficiencies;
- To coordinate delivery of services through the exchange of information and customer referral processes with other identified affiliated CareerCenter Partners.
- To provide cross training to each other's staff as to (a) programs and services offered, (b) eligibility requirements, (c) referral processes, and (d) coordination of efforts between the partners; and
- To provide procedures that will insure the customer is aware of all applicable information about grievance procedures and pathways to include posted visible information informing the customers of their rights and responsibilities.

Comments as of 5-15-2014:

From NFJP grantee filed services coordinator:

I read through the Plan and everything looks good and I don't have anything specific to change. I had Wendy Lord check it as in past years she felt that the estimated number of potato workers was undercounted. But 4250 sounds realistic (I believe she had initially thought that the number was close to 5000).

As for number of Farmworkers served through the NFJP: I'm assuming that the 279 is based on the numbers reported to Juan, which are the numbers of 'contacts' we have with the workers, regardless of whether or not they are enrolled in NFJP or are eligible. In other words, farmworkers may be referred to Maine Migrant Health or Migrant Ed and thus be counted as a 'contact', even though they are not enrolled in employment and training services. Also, we may enroll a farmworker, but that individual may have 5 dependent family members, so I have

reported 6 to Juan. Going forward, let me know if there is a specific type of contact I should reporting to you on a quarterly basis.

Response: Maine found the NFJP comment did not warrant a response given the supportive tenor of the observation.

From Manager of Pesticide Programs:

I do not see anything on Pesticide Safety Training, so I guess we really have nothing to comment upon.

Manager of Pesticide Programs

Maine Board of Pesticides Control

Response: Maine did not find this to be a substantive comment from the Maine Board of Pesticides. However, in response Maine assured that the SMA looks forward to being present at pesticide training sessions as a matter of practice.